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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

BLACKWATER LODGE AND TRAINING CENTER, INC., a Delaware Corporation dba BLACKWATER WORLDWIDE, Plaintiff, v. KELLY BROUGHTON, in his capacity as Director the Development Services Department of the City of San Diego; THE DEVELOPMENT SERVICES DEPARTMENT OF THE CITY OF SAN DIEGO, an agency of the City of San Diego; AFSANEH AHMADI, in her capacity as the Chief Building Official for the City of San Diego; THE CITY OF SAN DIEGO, a municipal entity; and DOES 1-20, inclusive, Defendants.	Case No. 08 CV 0926 H (WMC) **DEFENDANTS' NOTICE OF LODGMENT OF CALIFORNIA STATUTES AND AUTHORITY IN SUPPORT OF DEFENDANTS' RESPONSE TO COURT'S ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION** **EXHIBITS 15 - 47** Date: June 17, 2008 Time: 10:30 a.m. Courtroom: 13 Judge: Hon. Marilyn L. Huff

On behalf of the Defendants in this case, the City of San Diego hereby lodges the following documents in support of their Response to the Court's Order to Show Cause re Preliminary Injunction:

EXHIBIT 15

C

Effective:[See Text Amendments]

West's Annotated California Codes Currentness
Constitution of the State of California 1879 (Refs & Annos)
Article XI. Local Government (Refs & Annos)
→ **§ 7. Counties and cities; ordinances and regulations; authority**

Sec. 7. A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

CREDIT(S)

(Adopted June 2, 1970.)

HISTORICAL NOTES

1996 Main Volume

Repeal of former § 7 and addition of a new section having the same number, proposed by Assembly Const. Amend. No. 30 (1968), was rejected by the voters at the general election held Nov. 5, 1968.

Former § 7, adopted May 7, 1879, amended Nov. 6, 1894, providing for merger and consolidation of city and county governments, was repealed June 2, 1970. See Const. Art. 11, § 6.

Derivation: Const. 1879, former Art. 11, § 11, adopted May, 7, 1879.

CROSS REFERENCES

Abatement of nuisances, see Government Code §§ 26528, 38773.
Airport approaches zoning law,
  Generally, see Government Code § 50485 et seq.
  Effect on general zoning powers, see Government Code § 50485.14.
Alcoholic beverages, see Const. Art. 20, § 22.
Cities,
  Building ordinances, see Government Code § 38660 et seq.
  City charters, see Const. Art. 11, §§ 5, 6.
  Fire protection, see Government Code § 38600 et seq.
  Police protection, see Government Code § 38630.
  Water, see Government Code § 38730.
County health ordinances and officers, see Health and Safety Code § 101025 et seq.
County sanitation districts, see Health and Safety Code § 4700 et seq.
Duties of county sheriff, see Government Code § 26600 et seq.
Extended police protection, see Government Code § 25210.40 et seq.
Garbage,

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EXHIBIT 16

CALIFORNIA CODES
GOVERNMENT CODE
SECTION **910**-913.2

910. A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:
(a) The name and post office address of the claimant.
(b) The post office address to which the person presenting the claim desires notices to be sent.
(c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
(d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
(e) The name or names of the public employee or employees causing the injury, damage, or loss, if known.
(f) The amount claimed if it totals less than ten thousand dollars ($10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars ($10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.

910.2. The claim shall be signed by the claimant or by some person on his behalf. Claims against local public entities for supplies, materials, equipment or services need not be signed by the claimant or on his behalf if presented on a billhead or invoice regularly used in the conduct of the business of the claimant.

910.4. The board shall provide forms specifying the information to be contained in claims against the state or a judicial branch entity. The person presenting a claim shall use the form in order that his or her claim is deemed in conformity with Sections **910** and **910**.2. A claim may be returned to the person if it was not presented using the form. Any claim returned to a person may be resubmitted using the appropriate form.

910.6. (a) A claim may be amended at any time before the expiration of the period designated in Section 911.2 or before final action thereon is taken by the board, whichever is later, if the claim as amended relates to the same transaction or occurrence which gave rise to the original claim. The amendment shall be considered a part of the original claim for all purposes.
(b) A failure or refusal to amend a claim, whether or not notice of insufficiency is given under Section **910**.8, shall not constitute a defense to any action brought upon the cause of action for which the claim was presented if the court finds that the claim as presented complied substantially with Sections **910** and **910**.2 or a form provided

under Section 910.4.

910.8. If, in the opinion of the board or the person designated by it, a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2, or with the requirements of a form provided under Section 910.4 if a claim is presented pursuant thereto, the board or the person may, at any time within 20 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. The notice shall be given in the manner prescribed by Section 915.4. The board may not take action on the claim for a period of 15 days after the notice is given.

911. Any defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented is waived by failure to give notice of insufficiency with respect to the defect or omission as provided in Section 910.8, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.

911.2. (a) A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) not later than one year after the accrual of the cause of action.

(b) For purposes of determining whether a claim was commenced within the period provided by law, the date the claim was presented to the California Victim Compensation and **Government** Claims Board is one of the following:

(1) The date the claim is submitted with a twenty-five dollar ($25) filing fee.

(2) If a fee waiver is granted, the date the claim was submitted with the affidavit requesting the fee waiver.

(3) If a fee waiver is denied, the date the claim was submitted with the affidavit requesting the fee waiver, provided the filing fee is paid to the board within 10 calendar days of the mailing of the notice of the denial of the fee waiver.

911.3. (a) When a claim that is required by Section 911.2 to be presented not later than six months after accrual of the cause of action is presented after such time without the application provided in Section 911.4, the board or other person designated by it may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. The notice shall be in substantially the following form:

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law.

EXHIBIT 17

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement.

911.8. (a) Written notice of the board's action upon the application shall be given in the manner prescribed by Section 915.4.

(b) If the application is denied, the notice shall include a warning in substantially the following form:

"WARNING

"If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of **Government Code** Section 945.4 (claims presentation requirement). See **Government Code** Section 946.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

912.2. If an application for leave to present a claim is granted by the board pursuant to Section 911.6, the claim shall be deemed to have been presented to the board upon the day that leave to present the claim is granted.

912.4. (a) The board shall act on a claim in the manner provided in

EXHIBIT 18

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in the agreement.

911.8. (a) Written notice of the board's action upon the application shall be given in the manner prescribed by Section 915.4.

(b) If the application is denied, the notice shall include a warning in substantially the following form:

"WARNING

"If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.4 (claims presentation requirement). See Government Code Section 946.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

912.2. If an application for leave to present a claim is granted by the board pursuant to Section 911.6, the claim shall be deemed to have been presented to the board upon the day that leave to present the claim is granted.

912.4. (a) The board shall act on a claim in the manner provided in

Section 912.6, 912.7, or 912.8 within 45 days after the claim has been presented. If a claim is amended, the board shall act on the amended claim within 45 days after the amended claim is presented.

(b) The claimant and the board may extend the period within which the board is required to act on the claim by written agreement made either:

(1) Before the expiration of the period.

(2) After the expiration of the period if an action based on the claim has not been commenced and is not yet barred by the period of limitations provided in Section 945.6.

(c) If the board fails or refuses to act on a claim within the time prescribed by this section, the claim shall be deemed to have been rejected by the board on the last day of the period within which the board was required to act upon the claim. If the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period within which the board is required to act shall be the last day of the period specified in the agreement.

912.6. (a) In the case of a claim against a local public entity, the board may act on a claim in one of the following ways:

(1) If the board finds the claim is not a proper charge against the public entity, it shall reject the claim.

(2) If the board finds the claim is a proper charge against the public entity and is for an amount justly due, it shall allow the claim.

(3) If the board finds the claim is a proper charge against the public entity but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance.

(4) If legal liability of the public entity or the amount justly due is disputed, the board may reject the claim or may compromise the claim.

(b) In the case of a claim against a local public entity, if the board allows the claim in whole or in part or compromises the claim, it may require the claimant, if the claimant accepts the amount allowed or offered to settle the claim, to accept it in settlement of the entire claim.

(c) Subject to subdivision (b), the local public entity shall pay the amount allowed on the claim or in compromise of the claim in the same manner as if the claimant had obtained a final judgment against the local public entity for that amount, but the claim may be paid in not exceeding 10 equal annual installments as provided in Section 970.6 only if the claimant agrees in writing to that method of payment and in such case no court order authorizing installment payments is required. If an agreement for payment of the claim in installments is made, the local public entity, in its discretion, may prepay any one or more installments or any part of an installment.

912.7. The Judicial Council shall act on a claim against a judicial branch entity or judge of one of those entities in accordance with the procedure that the Judicial Council provides by rule of court. The Judicial Council may authorize any committee of the Judicial Council or employee of the Administrative Office of the Courts to perform the functions of the Judicial Council under this part.

EXHIBIT 19

912.8. Except as provided in Section 912.7, in the case of claims against the state, the board shall act on claims in accordance with that procedure as the board, by rule, may prescribe. It may hear evidence for and against the claims and, with the approval of the Governor, report to the Legislature those facts and recommendations concerning the claims as it deems proper. In making recommendations, the board may state and use any official or personal knowledge that any member may have regarding any claim. The board may authorize any employee of the state to perform the functions of the board under this part as are prescribed by the board.

913. (a) Written notice of the action taken under Section 912.6, 912.7, or 912.8 or the inaction which is deemed rejection under Section 912.4 shall be given in the manner prescribed by Section 915.4. The notice may be in substantially the following form:

"Notice is hereby given that the claim which you presented to the (insert title of board or officer) on (indicate date) was (indicate whether rejected, allowed, allowed in the amount of $____ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable) on (indicate date of action or rejection by operation of law)."

(b) If the claim is rejected in whole or in part, the notice required by subdivision (a) shall include a warning in substantially the following form:

"WARNING

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See **Government Code** Section 945.6.

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

913.2. The board may, in its discretion, within the time prescribed by Section 945.6 for commencing an action on the claim, re-examine a previously rejected claim in order to consider a settlement of the claim.

EXHIBIT 20

GOVERNMENT CODE
SECTION 945-949

945. A public entity may sue and be sued.

945.2. Except as otherwise provided by law, the rules of practice in civil actions apply to actions brought against public entities.

945.3. No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a superior court.

For the purposes of this section, charges pending before a superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

945.4. Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, in accordance with Chapters 1 and 2 of Part 3 of this division.

945.6. (a) Except as provided in Sections 946.4 and 946.6 and subject to subdivision (b), any suit brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced:

(1) If written notice is given in accordance with Section 913, not later than six months after the date such notice is personally delivered or deposited in the mail.

(2) If written notice is not given in accordance with Section 913, within two years from the accrual of the cause of action. If the period within which the public entity is required to act is extended pursuant to subdivision (b) of Section 912.4, the period of such extension is not part of the time limited for the commencement of the action under this paragraph.

(b) When a person is unable to commence a suit on a cause of action described in subdivision (a) within the time prescribed in that subdivision because he has been sentenced to imprisonment in a state prison, the time limit for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public entity establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (a).

(c) A person sentenced to imprisonment in a state prison may not commence a suit on a cause of action described in subdivision (a) unless he presented a claim in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division.

945.8. Except where a different statute of limitations is specifically applicable to the public entity, and except as provided in Sections 930.6 and 935, any action against a public entity upon a cause of action for which a claim is not required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity.

946. Where a claim that is required to be presented to a public entity in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division is so presented and action thereon is taken by the board:

(a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.

(b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on that part of the cause of action which is represented by the allowed portion of the claim.

(c) If the claim is allowed in part, no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the board to such effect, the claimant has accepted the amount allowed in settlement of the entire claim.

946.4. (a) Where provision is made by or pursuant to law that no suit may be brought against a public agency as defined in Section 53050 unless and until a claim is presented to the agency, the failure to present a claim does not constitute a bar or defense to the maintenance of a suit against such public agency if, during the 70 days immediately following the accrual of the cause of action:

(1) No statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of

EXHIBIT 21

GOVERNMENT CODE
SECTION 945-949

945. A public entity may sue and be sued.

945.2. Except as otherwise provided by law, the rules of practice in civil actions apply to actions brought against public entities.

945.3. No person charged by indictment, information, complaint, or other accusatory pleading charging a criminal offense may bring a civil action for money or damages against a peace officer or the public entity employing a peace officer based upon conduct of the peace officer relating to the offense for which the accused is charged, including an act or omission in investigating or reporting the offense or arresting or detaining the accused, while the charges against the accused are pending before a superior court.

Any applicable statute of limitations for filing and prosecuting these actions shall be tolled during the period that the charges are pending before a superior court.

For the purposes of this section, charges pending before a superior court do not include appeals or criminal proceedings diverted pursuant to Chapter 2.5 (commencing with Section 1000), Chapter 2.6 (commencing with Section 1000.6), Chapter 2.7 (commencing with Section 1001), Chapter 2.8 (commencing with Section 1001.20), or Chapter 2.9 (commencing with Section 1001.50) of Title 6 of Part 2 of the Penal Code.

Nothing in this section shall prohibit the filing of a claim with the board of a public entity, and this section shall not extend the time within which a claim is required to be presented pursuant to Section 911.2.

945.4. Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, in accordance with Chapters 1 and 2 of Part 3 of this division.

945.6. (a) Except as provided in Sections 946.4 and 946.6 and subject to subdivision (b), any suit brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced:

(1) If written notice is given in accordance with Section 913, not later than six months after the date such notice is personally delivered or deposited in the mail.

(2) If written notice is not given in accordance with Section 913, within two years from the accrual of the cause of action. If the period within which the public entity is required to act is extended pursuant to subdivision (b) of Section 912.4, the period of such extension is not part of the time limited for the commencement of the action under this paragraph.

(b) When a person is unable to commence a suit on a cause of action described in subdivision (a) within the time prescribed in that subdivision because he has been sentenced to imprisonment in a state prison, the time limit for the commencement of such suit is extended to six months after the date that the civil right to commence such action is restored to such person, except that the time shall not be extended if the public entity establishes that the plaintiff failed to make a reasonable effort to commence the suit, or to obtain a restoration of his civil right to do so, before the expiration of the time prescribed in subdivision (a).

(c) A person sentenced to imprisonment in a state prison may not commence a suit on a cause of action described in subdivision (a) unless he presented a claim in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division.

945.8. Except where a different statute of limitations is specifically applicable to the public entity, and except as provided in Sections 930.6 and 935, any action against a public entity upon a cause of action for which a claim is not required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity.

946. Where a claim that is required to be presented to a public entity in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division is so presented and action thereon is taken by the board:

(a) If the claim is allowed in full and the claimant accepts the amount allowed, no suit may be maintained on any part of the cause of action to which the claim relates.

(b) If the claim is allowed in part and the claimant accepts the amount allowed, no suit may be maintained on that part of the cause of action which is represented by the allowed portion of the claim.

(c) If the claim is allowed in part, no suit may be maintained on any portion of the cause of action where, pursuant to a requirement of the board to such effect, the claimant has accepted the amount allowed in settlement of the entire claim.

946.4. (a) Where provision is made by or pursuant to law that no suit may be brought against a public agency as defined in Section 53050 unless and until a claim is presented to the agency, the failure to present a claim does not constitute a bar or defense to the maintenance of a suit against such public agency if, during the 70 days immediately following the accrual of the cause of action:

(1) No statement pertaining to the public agency is on file, or is placed on file, in the Roster of Public Agencies in the office of

EXHIBIT 22

EXHIBIT 23

(a) The name, address, and date of birth of the guard or patrolperson.
(b) The registration number of the guard or patrolperson.
(c) The firearm permit number and baton permit number of the guard or patrolperson, if applicable.
(d) The name of the employer of the person.
(e) The description of any injuries and damages that occurred.
(f) The identity of all participants in the incident.
(g) Whether a police investigation was conducted relating to the incident.
(h) The date and location of the incident. Any report may be investigated by the director to determine if any disciplinary action is necessary.

A copy of the report delivered to the director pursuant to this section shall also be delivered within seven days of the incident to the local police or sheriff's department which has jurisdiction over the geographic area where the incident occurred.

7583.5. (a) Every licensee and any person employed and compensated by a licensee, other lawful business or public agency as a security guard or patrolperson, and who in the course of that employment or business carries a firearm, shall complete a course of training in the exercise of the powers to arrest and a course of training in the carrying and use of firearms. This subdivision shall not apply to armored vehicle guards hired prior to January 1, 1977. Armored vehicle guards hired on or after January 1, 1977, shall complete a course of training in the carrying and use of firearms, but shall not be required to complete a course of training in the exercise of the powers to arrest. The course of training in the carrying and use of firearms shall not be required of any employee who is not required or permitted by a licensee to carry or use firearms. The course in the carrying and use of firearms and the course of training in the exercise of the powers to arrest shall meet the standards which shall be prescribed by the Department of Consumer Affairs. The department shall encourage restraint and caution in the use of firearms.

(b) No uniformed employee of a licensee shall carry or use any firearm unless the employee has in his or her possession a valid firearm qualification card.

7583.6. (a) A person entering the employ of a licensee to perform the functions of a security guard or a security patrolperson shall complete a course in the exercise of the power to arrest prior to being assigned to a duty location.

(b) Except for a registrant who has completed the course of training required by Section 7583.45, a person registered pursuant to this chapter shall complete not less than 32 hours of training in security officer skills within six months from the date the registration card is issued. Sixteen of the 32 hours shall be completed within 30 days from the date the registration card is issued.

(c) A course provider shall issue a certificate to a security guard upon satisfactory completion of a required course, conducted in accordance with the department's requirements. A private patrol operator may provide training programs and courses in addition to the training required in this section. A registrant who is unable to provide his or her employing licensee the certificate of satisfactory completion required by this subdivision shall complete 16 hours of the training required by subdivision (b) within 30 days of the date of his employment and shall complete the 16 remaining hours within six months of his or her employment date.

(d) The department shall develop and approve by regulation a standard course and curriculum for the skills training required by subdivision (b) to promote and protect the safety of persons and the security of property. For this purpose, the department shall consult with consumers, labor organizations representing private security officers, private patrol operators, educators, and subject matter experts.

(e) The course of training required by subdivision (b) may be administered, tested, and certified by any licensee, or by any organization or school approved by the department. The department may approve any person or school to teach the course.

(f) (1) On and after January 1, 2005, a licensee shall annually provide each employee registered pursuant to this chapter with eight hours of specifically dedicated review or practice of security officer skills prescribed in either course required in Section 7583.6 or 7583.7.

(2) A licensee shall maintain at the principal place of business or branch office a record verifying completion of the review or practice training for a period of not less than two years. The records shall be available for inspection by the bureau upon request.

(g) This section does not apply to a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has successfully completed a course of study in the exercise of the power to arrest approved by the Commission on Peace Officer Standards and Training. This section does not apply to armored vehicle guards.

(h) This section shall become operative on July 1, 2004.

7583.7. (a) The course of training in the exercise of the power to arrest may be administered, tested, and certified by any licensee or by any organization or school approved by the department. The department may approve any person or school to teach the course in the exercise of the power to arrest. The course of training shall be approximately eight hours in length and shall cover the following topics:

(1) Responsibilities and ethics in citizen arrest.

(2) Relationship between a security guard and a peace officer in making an arrest.

(3) Limitations on security guard power to arrest.

(4) Restrictions on searches and seizures.

(5) Criminal and civil liabilities.

(A) Personal liability.

(B) Employer liability.

(6) Trespass law.

(7) Ethics and communications.

(8) Emergency situation response, including response to medical emergencies.

(9) Security officer safety.

(10) Any other topic deemed appropriate by the bureau.

(b) The majority of the course shall be taught by means of verbal instruction. This instruction may include the use of a video presentation.

(c) The department shall make available a guidebook as a standard

EXHIBIT 24

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 7. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES [FNA1]
ARTICLE 9. SKILLS TRAINING COURSE FOR SECURITY GUARDS

This database is current through 5/23/08, Register 2008, No. 21

§ 643. Skills Training Course for Security Guards.

(a) The course of skills training for registered security guards shall follow the standards prescribed by section 7583.6(b) of the Business and Professions Code. The attached Appendix sets forth the subjects that shall be taught and the maximum number of hours that shall be allowed towards meeting required training.

(b) For each course, or series of courses, the institution or company providing the training shall issue a Certificate of Completion to the individual completing the course. The certificate shall identify the course(s) taken, the number of hours of training provided, identification of the issuing entity, name of the individual and instructor and a date, and state that the course(s) comply with the Department of Consumer Affairs' Skills Training Course for Security Guards. The certificate shall be serially numbered for tracking.

<<DIVISION 7. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES [FNA1]>>

[FNa1] ED. NOTE: Former Chapter 7 (Collection Agency Licensing Bureau) and former Chapter 11 (Bureau of Private Investigators and Adjusters) merged as Division 7 -Bureau of Collection and Investigative Services.

Note: Authority cited: Section 7581, Business and Professions Code. Reference: Sections 7583.6 and 7583.7, Business and Professions Code.

HISTORY

1. New article 9 (section 643 and appendix), section and appendix filed 6-24-2004 as an emergency; operative 6-24-2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-22-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 6-24-2004 order, including amendment of appendix, transmitted to OAL 10-21-2004 and filed 12-6-2004 (Register 2004, No. 50).

3. Amendment of subsection (b) and appendix filed 4-9-2007; operative 5-9-2007 (Register 2007, No. 15).

16 CCR § 643, **16 CA ADC** § **643**

1CAC

16 CA ADC § **643**
END OF DOCUMENT

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EXHIBIT 25

Article 1: General Rules and Authority

Division 2: Land Development Authorities and Advisory Boards

("Applications" repealed 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
("Land Development Authorities and Advisory Boards" added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
("Consolidation of Processing" repealed and "Board of Zoning Appeals" added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
("Board of Zoning Appeals" repealed 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

§111.0201 City Council

The authority of the City Council to conduct its activities is established by California law and the City Charter. The process for appointment and the terms of the City Council members are provided in Municipal Code, Chapter 2, Article 7 (Election Code).
("Preapplication Conference" repealed and "City Council" added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§111.0202 Planning Commission

The authority of the Planning Commission to conduct its activities, the process for appointment, and the terms of its members are provided in the City Charter, Section 41.(c).
("Application Process" repealed and "Planning Commission" added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§111.0204 Hearing Officer

(a) Authority. The City Manager may designate a staff member to serve as a Hearing Officer. The Hearing Officer shall preside at a public hearing and make an impartial decision on a permit, map, or other matter based on the application, written reports prepared prior to the hearing, and information received at the hearing.

(b) Appointment and Terms. The City Manager will determine whom to appoint and the length of time the person will serve as a decision maker.

(c) Powers and Duties. A Hearing Officer may act as the decision maker for permits, maps, or other matters in accordance with the decision-making procedures of the Land Development Code.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EXHIBIT 26

§111.0205 City Staff

(a) Authority. The City Manager may designate a staff member to make an impartial decision, without a public hearing, on a permit, map, or other matter in accordance with the decision-making procedures of the Land Development Code.

(b) Appointment and Terms. The City Manager will determine whom to appoint and the length of time the staff member will serve as a decision maker.

(c) Powers and Duties. Designated City staff will act as the decision maker to decide permits, maps, or other matters in accordance with the decision-making procedures of the Land Development Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§111.0206 Historical Resources Board

(a) Authority. The Historical Resources Board has been established by the City Council in accordance with the City Charter, Section 43.

(b) Appointment and Terms

(1) The Historical Resources Board shall consist of 11 members, each appointed by the Mayor and subject to confirmation by the City Council. Each member shall serve a 2-year term without compensation and shall continue to serve until a successor is appointed. No member shall serve more than 4 consecutive terms. The members shall be appointed so that the terms of not more than 6 members will expire in any year. The expiration date of all terms of appointment shall be March 1. The Mayor may designate 1 member as Chairperson during March of each year. If the Mayor has not designated a chairperson by April 15, the Board shall elect a Chairperson from among its members.

(2) At least one Board member shall be appointed from among professionals in each of the following disciplines as required to meet the "Certified Local Government" criteria of the State Office of Historic Preservation , as established by the National Historic Preservation Act: architecture, history, architectural history, archaeology, and landscape architecture. Other members appointed may have experience or background in law, real estate, engineering, general contracting, finance, planning, or fine arts and should reflect diverse neighborhood representation and have demonstrated a special interest in historical preservation. No more than three owners of *designated historical resources* shall serve at any time.

EXHIBIT 27

Article 2: Required Steps in Processing

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Division 1: Applications

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0101 Preapplication Conference

Before submitting an application for a permit, map, or other matter, a prospective *applicant* may request a preapplication conference to discuss the proposed *development* with City staff. The person requesting the preapplication conference may be required to pay a fee that has been established by City Council resolution. Based upon the information provided by the *applicant* at the preapplication conference, the City shall inform the *applicant* of the general policies and regulations in effect at the time of the conference. The City may examine possible alternatives or modifications relating to the proposed permit, map, or other matter.

The *applicant* is responsible for knowing and understanding the governing policies and regulations applicable to the proposed *development*, and the City is not liable for any damages or loss resulting from any actual or alleged failure to inform the *applicant* of any laws or regulations that may be applicable to a *development*. Nothing stated in this meeting shall be construed as actual or implied approval of a proposed *development*.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§112.0102 Application Process

An application for a permit, map, or other matter shall be filed with the City Manager in accordance with the following requirements:

(a) Authority to File an Application. The following persons are deemed to have the authority to file an application:

(1) The *record owner* of the real property that is the subject of the permit, map, or other matter;

(2) The property owner's authorized agent; or

(3) Any other person who can demonstrate a legal right, interest, or entitlement to the use of the real property subject to the application.

(4) Any person who has an approved and executed Disposition and Development Agreement with the Redevelopment Agency of the City of San Diego

(b) Submittal Requirements. The application shall be made on a form provided by the City Manager and shall be accompanied by the materials, information, fees, and deposits that are required on the date the application is filed, unless otherwise specified by the Land Development Code. The application shall be *deemed complete* when the department processing the application has determined that the application includes all of the information, materials, fees, and deposits required by this section and Section 112.0202. After the application has been *deemed complete*, the City Manager may not request any new or additional materials, information, fees, or deposits that were not specified at the time of application, except as provided by state law. The City may, however, in the course of processing the application, request that the *applicant* clarify, simplify, or provide in alternate format or medium, the information required for the application.

(c) Materials and Information. The City Manager shall maintain a list specifying the materials and information to be submitted with each application for a permit, map, or other matter filed in accordance with the Land Development Code. The list may be revised on a quarterly basis or as needed to comply with revisions to local, state, or federal law, regulation, or policy. The revised list shall be posted at the City, shall become effective on the 30th calendar day after posting, and shall apply to all applications submitted after that date. The City Manager shall provide a copy of the list to all *applicants* and to any person who requests a copy.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 2-28-2005 by O-19360 N.S.)

§112.0103 Consolidation of Processing

When an *applicant* applies for more than one permit, map, or other approval for a single *development*, the applications shall be consolidated for processing and shall be reviewed by a single decision maker. The decision maker shall act on the consolidated application at the highest level of authority for that *development* as set forth in Section 111.0105. The *findings* required for approval of each permit shall be considered individually, consistent with Section 126.0105.
(Added 12-9-1997 by O-18451 N.S.; amended 10-19-1999 by O-18691 N.S.; effective 1-1-2000.)

EXHIBIT 28

(h) Any *structure* that is proposed for relocation that has been damaged, has had portions removed, has been cut into sections, or has been otherwise structurally altered after the pre-relocation examination may be considered a substandard *structure* or nuisance and may be abated in accordance with the Land Development Code.

(i) The City may take any appropriate enforcement action to abate a *public nuisance*, despite the issuance of any permits to maintain, alter, expand, demolish, or reconstruct a *structure*, or to operate or resume operation of a use.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444; effective 2-9-2006)

§121.0308 No Permission to Violate Codes

(a) The issuance or granting of any *development permit* or *construction permit* or any plan, specifications, computations, or inspection approval does not constitute a permit for, or an approval of, any violation of any of the provisions of the Land Development Code, including the Building, Electrical, Plumbing, or Mechanical Regulations or any other ordinance of the City. *Development permits*, *construction permits*, or inspections presuming to give authority to violate or cancel the provisions of the Land Development Code, Building, Electrical, Plumbing, or Mechanical Regulations or other ordinances of the City are not valid.

(b) The issuance of a *development permit* or *construction permit* based on plans, specifications, and other data does not prevent the City Manager from subsequently requiring the correction of errors in the plans, specifications, and other data or the Building Official from stopping building operations that are in violation of the Land Development Code or any other applicable law.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0309 Procedure for Issuing a Stop Work Order

(a) Issuing a Stop Work Order. Whenever any work is being performed that is contrary to the provisions of the Land Development Code, the City Manager may order the work stopped by issuing a Stop Work Order. The Stop Work

Order shall be in writing and shall be served on any person engaged in the work or causing the work to be performed. The person served with the Stop Work Order shall stop the work until authorized by the City Manager to proceed.

EXHIBIT 29

(b) Process Four

(1) A decision on an application for a Site Development Permit for the types of *development* listed in Section 126.0502(d) shall be made in accordance with Process Four.

(2) A recommendation of the Historical Resources Board is required prior to the Planning Commission decision on a Site Development Permit when a *historical district* or *designated historical resource* is present.

(c) Process Five

A decision on an application for a Site Development Permit for the types of *development* listed in 126.0502(e) shall be made in accordance with Process Five.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§126.0504 Findings for Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b) through (n) that are applicable to the proposed *development* as specified in this section.

(a) Findings for all Site Development Permits

(1) The proposed *development* will not adversely affect the applicable *land use plan*;

(2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and

(3) The proposed *development* will comply with the applicable regulations of the Land Development Code.

(b) Supplemental Findings--Environmentally Sensitive Lands

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) The site is physically suitable for the design and siting of the proposed *development* and the *development* will result in minimum disturbance to *environmentally sensitive lands*;

(2) The proposed *development* will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, *flood* hazards, or fire hazards;

(3) The proposed *development* will be sited and designed to prevent adverse impacts on any adjacent *environmentally sensitive lands*;

(4) The proposed *development* will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;

(5) The proposed *development* will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

(6) The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed *development*.

(c) Supplemental Findings--Environmentally Sensitive Lands Deviations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b):

(1) There are no feasible measures that can further minimize the potential adverse effects on *environmentally sensitive lands*; and

(2) The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

(d) Supplemental Findings--Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested from the *Special Flood Hazard Area* regulations as specified in Section 143.0150(b) may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) and the supplemental *findings* in Sections 126.0504(b) and 126.0504(c):

(1) The City Engineer has determined that the proposed *development*, within any designated *floodway* will not result in an increase in *flood* levels during the base *flood* discharge;

(2) The City Engineer has determined that the deviation would not result in additional threats to public safety, extraordinary public expense, or create a *public nuisance*.

(e) Supplemental Findings--Steep Hillsides Development Area Regulations Alternative Compliance

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *steep hillsides* where alternative compliance is requested in accordance with Section 143.0151 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the findings in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b):

(1) The proposed *development* is in conformance with the Steep Hillside Guidelines;

(2) The proposed *development* conforms to the applicable *land use plan*; and

(3) Strict application of the steep hillside development area regulations would result in conflicts with other City regulations, policies, or plans.

(f) Supplemental Findings--Important Archaeological Sites and Traditional Cultural Properties

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to an *important archaeological site* or *traditional cultural property* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) :

(1) The site is physically suitable for the design and siting of the proposed *development*, the *development* will result in minimum disturbance to *historical resources*, and measures to fully mitigate for any disturbance have been provided by the *applicant*; and

(2) All feasible measures to protect and preserve the special character or the special historical, architectural, archaeological, or cultural value of the resource have been provided by the *applicant*.

(g) Supplemental Findings--Historical Resources Deviation for Important Archaeological Sites and Traditional Cultural Properties

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to an *important archaeological site* or *traditional cultural property* where a deviation is requested in accordance with Section 143.0260 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) There are no feasible measures, including a less environmentally damaging location or alternative, that can further minimize the potential adverse effects on *historical resources*;

(2) The proposed deviation is the minimum necessary to afford relief and accommodate the *development* and all feasible measures to mitigate for the loss of any portion of the resource have been provided by the *applicant*; and

(3) There are special circumstances or conditions apart from the existence of *historical resources*, applying to the land that are peculiar to the land and are not of the applicant's making, whereby the strict application of the provisions of the *historical resources* regulations would deprive the property owner of reasonable use of the land.

(h) Supplemental Findings--Historical Resources Deviation for Relocation of a Designated Historical Resource

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to *historical resources* where a deviation is requested in accordance with Section 143.0260 for relocation of a *designated historical resource* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) There are no feasible measures, including maintaining the resource on site, that can further minimize the potential adverse effects on *historical resources*;

(2) The proposed relocation will not destroy the historical, cultural, or architectural values of the *historical resource*, and the relocation is part of a definitive series of actions that will assure the preservation of the *designated historical resource*.

(3) There are special circumstances or conditions apart from the existence of *historical resources*, applying to the land that are peculiar to the land and are not of the applicant's making, whereby the strict application of the provisions of the *historical resources* regulations would deprive the property owner of reasonable use of the land.

(i) Supplemental Findings--Historical Resources Deviation for in Substantial Alteration of a Designated Historical Resource or Within a Historical District

A Site Development Permit required in accordance with Section 143.0210 because of potential impacts to *designated historical resources* where a deviation is requested in accordance with Section 143.0260 for substantial alteration of a *designated historical resource* or within a *historical district* or new construction of a *structure* located within a *historical district* may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) :

(1) There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the *designated historical resource* or *historical district*;

(2) The deviation is the minimum necessary to afford relief and accommodate the *development* and all feasible measures to mitigate for the loss of any portion of the *historical resource* have been provided by the *applicant*; and

(3) The denial of the proposed *development* would result in economic hardship to the owner. For purposes of this finding, "economic hardship" means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property.

(j) Supplemental Findings--Clairemont Mesa Height Limit

A Site Development Permit required in accordance with Section 132.1306 because an exception from the Clairemont Mesa height limit is requested may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and

(2) The granting of an exception is appropriate because there are existing *structures* over 30 feet in height and the proposed *development* will be compatible with surrounding one, two, or three-story *structures*; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the *floor* area of the *structure*.

(k) Supplemental Findings--Mobilehome Park Discontinuance

A Site Development Permit required in accordance with Section 132.0702 because a discontinuance of a *mobilehome park* is proposed may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) The discontinuance of use of the land for a *mobilehome park* or *mobilehome* spaces will not deprive the community of a needed facility;

(2) The discontinuance of use of the land for a *mobilehome park* or *mobilehome* spaces, because of the associated relocation plan and

conditions that have been applied to the discontinuance, will not be detrimental to the public health, safety, and welfare of persons living in the *mobilehome park*; and

(3) The use to which the *applicant* proposes to put the property will provide a greater public benefit than continued use of the property as a *mobilehome park* or *mobilehome* spaces.

(l) Supplemental Findings--Deviation for Affordable Housing

A *development* that requires a Site Development Permit in accordance with Section 143.0750 because the *applicant* has requested a deviation from the applicable development regulations as an additional incentive to a *density* bonus for providing affordable housing may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) The proposed *development* will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;

(2) The *development* will not be inconsistent with the purpose of the underlying zone.

(3) The deviation is necessary to make it economically feasible for the *applicant* to utilize an *density* bonus authorized for the *development* pursuant to Section 143.0730.

(m) Supplemental Findings - Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings

A development that requires a Site Development Permit in accordance with Section 143.0920 because the applicant has requested a deviation from the applicable development regulations for affordable/in-fill housing and Sustainable Building projects may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0504(a):

(1) The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants;

(2) The development will not be inconsistent with the purpose of the underlying zone;

(3) Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

(n) Supplemental Findings - *Condominium Conversions*

A Site Development Permit required in accordance with Section 144.0509, because of potential impacts to the surrounding neighborhood, may be approved or conditionally approved only if the decision maker makes either of the following supplemental *findings* in addition to the *findings* in Section 126.0404 (a):

(1) The decision maker has considered the project-specific constraints and has determined that the *condominium conversion* as proposed would, to the maximum extent feasible, address the requirements of Section 144.0507, and has been developed to provide specific community benefits; or

(2) Strict adherence to the requirements of Section 144.0507 would result in the demolition of *structures* or loss of the architectural character of *structures* that contribute to the community character.

(o) Supplemental Findings- *Public Right-of-Way* Encroachments.

A Site Development Permit in accordance with Section 126.0502(d)(6) for any *encroachment* or object which is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the proposed *encroachment* will be located may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

(1) The proposed *encroachment* is reasonably related to public travel, or benefits a public purpose, or all *record owners* have given the applicant written permission to maintain the *encroachment* on their property;

(2) The proposed *encroachment* does not interfere with the free and unobstructed use of the *public right-of-way* for public travel;

(3) The proposed *encroachment* will not adversely affect the aesthetic character of the community; and

(4) The proposed *encroachment* does not violate any other Municipal Code provisions or other local, state, or federal law; and

(5) For *coastal development* in the *coastal overlay zone*, the *encroachment* is consistent with Section 132.0403 (Supplemental Use Regulations of the Coastal Overlay Zone).

(Amended 6-3-2003 by O-19188 N.S.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-09-2006)
(Amended 2-9-2006 by O-19461 N.S.; effective 3-9-2006.)
(Amended 3-1-2006 by O-19466 N.S.; effective 4-1-2006)
(Amended 7-5-2006 by O-19505 N.S.; effective 8-5-2006.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. Ordinance No. O-19188 will not apply within the Coastal Zone until the thirtieth day following the date the Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment. If Ordinance No. O-19188 is certified with suggested modifications, Ordinance No. O-19188 shall be void within the Coastal Zone. For the corresponding regulation (Findings for Site Development Permit Approval) within the Coastal Overlay Zone, refer to Land Development Code Section 126.0504, added by City Council on December 9, 1997 by O-18451.]

§126.0505 Violations of a Site Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Site Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Site Development Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this division shall be treated as strict liability offenses regardless of intent.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EXHIBIT 30

Article 8: Implementation Procedures For The California Environmental Quality Act and the State CEQA Guidelines

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Division 2: Procedures for Determination of Exemption or Type of Environmental Document Required

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0201 Purpose of Procedures for Determinations of Exemption or Type of Environmental Document Required

The purpose of these procedures is to implement CEQA and the State CEQA Guidelines within the City of San Diego, to identify the types of actions that are exempt from environmental review, consistent with the requirements of CEQA and the State CEQA Guidelines, and for nonexempt actions, to provide procedures for determining the type of environmental document that is required.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0202 Incorporation of CEQA by Reference Actions That Require Compliance with CEQA

Except as otherwise provided, CEQA and this article shall apply to the following discretionary activities located within the City of San Diego:

(a) Activities directly undertaken by the City such as construction of *streets*, bridges, or other public *structures* or adoption of plans and zoning regulations;

(b) Activities financed in whole or in part by the City of San Diego; and

(c) Private activities that require approval from the City of San Diego such as adoption and amendment of *land use plans* and the *Local Coastal Program*, zoning and rezoning actions, *development* agreements, *subdivision* activities, *development* and use permits, and variances.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EXHIBIT 31

Article 8: Implementation Procedures For The California Environmental Quality Act and the State CEQA Guidelines

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Division 2: Procedures for Determination of Exemption or Type of Environmental Document Required

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§128.0201 Purpose of Procedures for Determinations of Exemption or Type of Environmental Document Required

The purpose of these procedures is to implement CEQA and the State CEQA Guidelines within the City of San Diego, to identify the types of actions that are exempt from environmental review, consistent with the requirements of CEQA and the State CEQA Guidelines, and for nonexempt actions, to provide procedures for determining the type of environmental document that is required.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§128.0202 Incorporation of CEQA by Reference Actions That Require Compliance with CEQA

Except as otherwise provided, CEQA and this article shall apply to the following discretionary activities located within the City of San Diego:

(a) Activities directly undertaken by the City such as construction of *streets*, bridges, or other public *structures* or adoption of plans and zoning regulations;

(b) Activities financed in whole or in part by the City of San Diego; and

(c) Private activities that require approval from the City of San Diego such as adoption and amendment of *land use plans* and the *Local Coastal Program*, zoning and rezoning actions, *development* agreements, *subdivision* activities, *development* and use permits, and variances.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EXHIBIT 32

§128.0205 How to Apply for Environmental Review

An application for a *development permit* made in accordance with Section 112.0102 also serves as the application for environmental review. A separate application for an Environmental Initial Study may be required for a discretionary action that does not require a *development permit*.
(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0206 Establishment and Collection of Fees or Deposits

Fees and deposits may be charged for environmental review in accordance with Section 112.0201. Any party proposing a project subject to the provisions of this article shall be required to submit the required fees or deposit in accordance with Section 112.0202.
(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)

§128.0207 Review for Exemption from the Requirements of CEQA

(a) As part of the preliminary review of an activity proposed within the City of San Diego, the Development Services Director shall determine whether the proposed activity is exempt from CEQA as described in Section 128.0203 and in the State CEQA Guidelines, Section 15061 and shall file a Notice of Right to Appeal Environmental Determination in accordance with Section 112.0310.

(b) A determination by the Development Services Director that a project is exempt from CEQA, as described in State CEQA Guidelines section 15061(b)(2) or (3), shall be subject to the appeal procedures in section 112.0510.

(Added 12-9-1997 by O-18451 N.S.; amended 12-6-1999 by O-18728 N.S.; effective 1-1-2000.)
(Amended 7-26-2004 by O-19303 N.S.; effective 8-25-2004)

§128.0208 Determination of Type of Environmental Document

(a) After an application for a discretionary permit or action is *deemed complete*, the Planning and Development Review Director shall take one of the following actions:

(1) Determine that the project is exempt from CEQA as described in the State CEQA Guidelines, Section 15061;

(2) Conduct an Environmental Initial Study to determine what type of environmental document will need to be prepared as described in the State CEQA Guidelines, Section 15063; or

EXHIBIT 33

(c) The details of any action granting approval of an alternate material, design, or construction method shall be entered into the file for that individual permit and a record of the action shall be maintained in accordance with the procedures established by the City Manager.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§129.0110 Testing of Materials, Designs, or Construction Methods

(a) Whenever the Building Official determines that the evidence submitted is insufficient to establish compliance with the applicable provisions of the Building, Electrical, Plumbing, or Mechanical Regulations, the Building Official may require tests to prove compliance. These tests shall be made at no expense to the City.

(b) Test methods shall be as specified by the applicable provisions of the Building, Electrical, Plumbing, or Mechanical Regulations or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures.

(c) All tests shall be made by an agency approved by the City. Reports of such tests shall be retained by the Building Official for the period required for the retention of public records.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§129.0111 General Rules for Construction Permit Inspections

All work for which a *construction permit* is issued shall be subject to inspection by the Building Official. Required inspections shall be performed in accordance with the inspection procedures established by the City Manager, except as may be exempted by the Land Development Code. Inspections that may be required are listed in the Land Development Manual.

(a) The permittee shall be informed of the inspections and the sequence of inspections required for the *construction permit*.

(b) No work shall be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official.

(c) No portion of any construction work shall be concealed until inspected and approved.

(d) After making the requested inspections, the Building Official shall either indicate that the inspected portion of the construction is satisfactory as completed or shall notify the permittee or an agent of the permittee that the inspected portion fails to comply with the Building, Electrical, Plumbing, or Mechanical Regulations or with other applicable regulations of the Municipal Code.

(e) Any portions of work that do not comply with requirements shall be corrected and such portion shall not be covered or concealed until inspected and authorized by the Building Official.

(f) A survey of the *lot* may be required to verify that the *structure* is located in accordance with the approved plans.

(g) A final inspection, with approval of all *structures* and installations, is required before occupancy and use, unless specifically excepted. If *grading* is involved, final inspection shall be after finish *grading*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§129.0112 Responsibilities of Permittee or Authorized Agent Regarding Inspections

(a) Requesting an Inspection. It shall be the responsibility of the permittee or the person doing the work authorized by a *construction permit* to notify the Building Official when work is ready for inspection. The request shall be in accordance with procedures established by the City Manager. The Building Official may require that every request for inspection be filed at least one *business day* before the inspection is desired.

(b) Providing Access for Inspections. The person requesting any inspection required by the Building, Electrical, Plumbing, or Mechanical Regulations or the Land Development Code shall be responsible for providing access to, and means for inspection of, the work to be inspected. Neither the Building Official nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(c) Reinspection. A fee may be assessed for reinspection if the inspected work is determined to be incomplete. If reinspection fees have been assessed on a site, no additional inspection of the work will be performed until the required fees have been paid.

(d) Maintaining Inspection Record Card. Before beginning any permitted work the *permit holder* shall post an inspection record card on the site or the card shall be otherwise conveniently accessible to the Building Official or City Engineer. The card shall be kept accessible by the *permit holder* until final approval has been granted by the Building Official or City Engineer.

(e) One set of the approved plans, permits and specifications shall be kept on the site of the *structure* or work at all times during which work authorized by those plans is in progress, and shall be made available to City officials upon request.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

EXHIBIT 34

Article 9: Construction Permits

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Division 1: General Construction Permit Authority and Procedures

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§129.0101 Purpose of Construction Review Procedures

The purpose of these procedures is to establish a review process for construction plans before construction, demolition, or installation and for inspection of construction work before use or occupancy. The intent is to determine compliance with applicable codes and other regulations to safeguard public health, safety, and welfare.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§129.0102 When Construction Permit Procedures Apply

The following permits require construction review, and the procedures for *construction permits* apply to these permits unless stated otherwise in this article: Building Permits, Electrical Permits, Plumbing or Mechanical Permits, Demolition/Removal Permits, Grading Permits, Public Right-of-Way Permits, and Sign Permits.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 3-1-2006 by O-19468 N.S.; effective 4-1-2006.)

§129.0103 Interpretation of Differing Regulations

Where different sections of the Building, Electrical, Plumbing, and Mechanical Regulations may specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§129.0104 Construction Permit Authorities

(a) The powers and duties of the Building Official are as follows:

(1) To administer and enforce the Building, Electrical, Plumbing, and Mechanical Regulations.

(2) To review applications for Building Permits, Electrical Permits, Plumbing Permits, and Mechanical Permits including plans, specifications, and other data.

(3) To determine if proposed work is in compliance with the Building, Electrical, Plumbing, and Mechanical Regulations and other applicable provisions of the Municipal Code and to make the decision to approve and issue the appropriate *construction permit*.

(4) To make interpretations of the Building, Electrical, Plumbing, and Mechanical Regulations. The interpretations, rules, and regulations shall be in conformance with the intent and purposes of the Building, Electrical, Plumbing, and Mechanical Regulations.

(5) To grant modifications for individual cases when there are practical difficulties involved in carrying out the provisions of the Building, Electrical, Plumbing, or Mechanical Regulations. The Building Official shall first find that a special individual reason makes the strict application of the Building, Electrical, Plumbing, or Mechanical Regulations impractical, that the modification is in conformance with the purpose and intent of the Building, Electrical, Plumbing, or Mechanical Regulations, and that the modification does not lessen any fire protection requirements or any degree of structural integrity. The details of any action granting modification shall be recorded and entered in the project file.

(6) To adopt policies and regulations reasonably necessary to clarify the application of the Building, Electrical, Plumbing, and Mechanical Regulations. The policies and regulations shall be in conformance with the purpose and intent of these regulations.

(7) To request an interpretation of any provisions of this article or Chapter 14, Articles 5, 6, and 7, or the suitability of any alternate material, design, or construction method from the Board of Building Appeals and Advisors.

(8) To keep complete records of all permits issued, inspections and reinspections made, and other official work performed in accordance with the provisions of the Land Development Code.

(9) To require the recordation of documents with the County Recorder as necessary to effectively enforce the requirements of the Land Development Code.

(10) To request and receive the assistance and cooperation of other City officials in carrying out these duties.

(11) To require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the State of California, even if not required by state law.

(b) The powers and duties of the City Engineer with respect to *construction permits* are as follows:

(1) To administer and enforce the applicable provision of the Land Development Code and Municipal Code Chapter 6, Article 2 (Public Rights-of-Way and Improvements).

(2) To review applications for Grading Permits and Public Right-of-Way Permits including plans, specifications, and other data to determine if an application is in compliance with the Municipal Code, adopted City standards, and engineering standards of practice.

(3) To inspect construction activity including *public improvements*, *grading*, *encroachments*, and traffic control in the *public rights-of-way* to determine if the construction activity is in compliance with the issued permit, the Municipal Code, and adopted City standards.

(4) To make interpretations of the applicable provisions of the Land Development Code. The interpretations shall be in conformance with the purpose and intent of the Land Development Code.

(5) To grant modifications for individual cases when there are practical difficulties involved in carrying out the applicable provisions of the Municipal Code. The City Engineer shall first find that a special individual reason makes the strict application of the Land Development Code impractical, that the modification is in conformance with the purpose and intent of the Municipal Code, and that the modification does not lessen any fire protection requirements or any degree of public safety. The details of any action granting modification shall be recorded and entered in the project files.

(6) To adopt policies and regulations reasonably necessary to clarify the application of the applicable provisions of the Land Development Code. The policies and regulations shall be in conformity with the purposes and intent of the Land Development Code.

(7) To request an interpretation of any provisions of this article or the suitability of alternate materials and types of construction from the Board of Engineering Appeals and Advisors.

(8) To require the recordation of documents with the County Recorder as necessary to effectively enforce the applicable provisions of the Land Development Code.

(9) To request and receive the assistance and cooperation of other City officials in carrying out these duties.

(10) To inspect any property within the City of San Diego to determine compliance with the applicable provisions of the Land Development Code.

(11) To require plans, computations, and specifications to be prepared and designed by a an engineer or architect licensed by the State of California, even if not so required by state law.

(Amended 9-24-2002 by O-19102 N.S.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

§129.0105 How to Apply for Construction Permit Review

(a) An *applicant* for a *construction permit* shall submit an application for one or more permits, as required, in accordance with Section 112.0102.

(b) If a proposed *development* requires one or more *development permits*, the required *development permits* must be issued before an application is submitted for a *construction permit* except as provided in Section 129.0105(c).

(c) The Building Official may waive the requirement that all *development permits* be issued before an application for a *construction permit* is accepted, if the Building Official determines that the *development permit* issues will not affect the *construction permit* review.

(d) The Building Official may waive submittal requirements for plans, specifications, designs, or computations; requirements for construction inspection; or other data if the Building Official determines that, because of the nature of the proposed work, review of plans or other submittal materials is not required to determine compliance with the Building, Electrical, Plumbing, or Mechanical Regulations.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EXHIBIT 35

§131.0110 Determination of Use Category and Subcategory

(a) A use shall be identified as belonging to a use category and use subcategory based upon the descriptions in Section 131.0112 and the facility needs and operational characteristics of the use including type of use, intensity of use, and *development* characteristics of use. The Use Regulations Tables in the base zones shall be used to determine in which base zones the use is permitted. If a particular use could meet the description of more than one use subcategory, the subcategory with the most direct relationship to the specific use shall apply. The City Manager shall identify a particular uses's category and subcategory upon request of an *applicant* or a property owner.

(b) If the *applicant* or property owner disputes the City Manager's determination, the City Manager may place the question of the appropriate use category and use subcategory for that particular use on the Planning Commission's agenda. The City Manager shall present the factors used in the determination and the position of the *applicant* or property owner. The Planning Commission shall recommend to the City Manager its interpretation of the appropriate use category or use subcategory for the particular use.

(c) If an appropriate use category and use subcategory cannot be determined for a specific use by referring to the Use Regulations Tables, an amendment to the Use Regulations Table may be initiated in accordance with Chapter 12, Article 3, Division 1 (Zoning and Rezoning Procedures).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

EXHIBIT 36

- IL-1-1 allows primarily light industrial uses
- IL-2-1 allows a mix of light industrial and office uses with limited commercial
- IL-3-1 allows a mix of light industrial, office, and commercial uses

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0604 Purpose of the IH (Industrial--Heavy) Zones

(a) The purpose of the IH zones is to provide space for land-intensive industrial activities emphasizing base-sector manufacturing. The IH zones are intended to promote efficient industrial land use with minimal *development* standards, while providing proper safeguards for adjoining properties and the community in general. It is the intent of these zones to limit the presence of nonindustrial uses in order to preserve land that is appropriate for large-scale industrial users.

(b) The IH zones are differentiated based on the uses allowed as follows:

- IH-1-1 allows primarily manufacturing uses
- IH-2-1 allows manufacturing uses with some office

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0605 Purpose of the IS (Industrial--Small Lot) Zone

The purpose of the IS zone is to provide for small-scale industrial activities within urbanized areas. It is intended that the IS zones permit a wide range of industrial and nonindustrial land uses to promote economic vitality and a neighborhood scale in *development*. The property development regulations of the IS zone are intended to accommodate the *development* of small and medium sized industrial and commercial activities by providing reduced lot area, landscaping, and parking requirements.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0615 Where Industrial Zones Apply

On the effective date of Ordinance O-18691, all industrial zones that were established in Municipal Code Chapter 10, Article 1, Division 4 shall be amended and replaced with the base zones established in this division, as shown in Table 131-06A.

Table 131-06A
Industrial Zone Applicability

Previous Chapter 10 Industrial Zone Replaced with New Industrial Zone Established by this Division	
Industrial Zone That Existed on December 31 1999..	**Applicable Zone of this Division**
SR	IP-1-1
M-IP	IP-2-1
M-1B	IL-2-1
M-SI	IS-1-1
M-1, M1-A	IL-3-1
M-2, M-2A, M-LI	IH-2-1
No Existing Zone	IL-1-1
No Existing Zone	IH-1-1

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0620 Use Regulations of Industrial Zones

The regulations of Section 131.0622 apply in the industrial zones unless otherwise specifically provided by footnotes indicated in Table 131-06B. The uses permitted in any zone may be further limited if *environmentally sensitive lands* are present, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

(a) Within the industrial zones, no *structure* or improvement, or portion thereof, shall be constructed, established, or altered, nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-06B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity not listed in this section and Section 131.0622.

(b) All uses or activities permitted in the industrial zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.

(c) *Accessory uses* in the industrial zones may be permitted in accordance with Section 131.0125.

EXHIBIT 37

Table 131-06A
Industrial Zone Applicability

Previous Chapter 10 Industrial Zone Replaced with New Industrial Zone Established by this Division	
Industrial Zone That Existed on December 31 1999..	**Applicable Zone of this Division**
SR	IP-1-1
M-IP	IP-2-1
M-1B	IL-2-1
M-SI	IS-1-1
M-1, M1-A	IL-3-1
M-2, M-2A, M-LI	IH-2-1
No Existing Zone	IL-1-1
No Existing Zone	IH-1-1

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0620 Use Regulations of Industrial Zones

The regulations of Section 131.0622 apply in the industrial zones unless otherwise specifically provided by footnotes indicated in Table 131-06B. The uses permitted in any zone may be further limited if *environmentally sensitive lands* are present, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

(a) Within the industrial zones, no *structure* or improvement, or portion thereof, shall be constructed, established, or altered, nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-06B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity not listed in this section and Section 131.0622.

(b) All uses or activities permitted in the industrial zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.

(c) *Accessory uses* in the industrial zones may be permitted in accordance with Section 131.0125.

(d) Temporary uses may be permitted in the industrial zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4.

(e) For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

Legend for Table 131-06B

Symbol in Table 131-06B	Description of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or *development permit*. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

EXHIBIT 38

(d) Temporary uses may be permitted in the industrial zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4.

(e) For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

Legend for Table 131-06B

Symbol in Table 131-06B	Description of Symbol
P	Use or use category is permitted. Regulations pertaining to a specific use may be referenced.
L	Use is permitted with limitations, which may include location limitations or the requirement for a use or *development permit*. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
N	Neighborhood Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
C	Conditional Use Permit Required. Regulations are located in Chapter 14, Article 1 (Separately Regulated Use Regulations).
-	Use or use category is not permitted.

Table 131-06B
Use Regulations Table for Industrial Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	**Zones**							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Open Space									
Active Recreation		P	P	-	P	P	-	P	P
Passive Recreation		P	P	-	-	-	-	-	-
Natural Resources Preservation		-	-	-	-	-	-	-	-
Park Maintenance Facilities		-	-	-	-	-	-	-	-
Agriculture									
Agricultural Processing		-	-	-	-	-	-	-	-
Aquaculture Facilities		-	-	P	P	P	P	P	P
Dairies		-	-	-	-	-	-	-	-
Horticulture Nurseries & Greenhouses		-	-	P	-	P	P	P	-
Raising & Harvesting of Crops		-	-	P	-	P	P	P	-
Raising, Maintaining & Keeping of Animals		-	-	-	-	-	-	-	-
Separately Regulated Agriculture Uses									
Agricultural Equipment Repair Shops		-	-	P	P	P	P	P	P
Commercial Stables		-	-	-	-	-	-	-	-
Community Gardens		-	-	N	-	N	N	N	N
Equestrian Show & Exhibition Facilities		-	-	-	-	-	-	-	-
Open Air Markets for the Sale of Agriculture-related Products & Flowers		-	-	-	-	-	-	-	-
Residential									
Mobilehome Parks		-	-	-	-	-	-	-	-
Multiple Dwelling Units		-	-	-	-	-	-	-	-
Rooming House [See Section 131.0112(a)(3)(A)]		-	-	-	-	-	-	-	
Single Dwelling Units		-	-	-	-	-	-	-	-
Separately Regulated Residential Uses									
Boarder & Lodger Accommodations		-	-	-	-	-	-	-	-
Companion Units		-	-	-	-	-	-	-	-
Employee Housing:									
6 or Fewer Employees		-	-	-	-	-	-	-	-

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
12 or Fewer Employees		-	-	-	-	-	-	-	-
Greater than 12 Employees		-	-	-	-	-	-	-	-
Fraternities, Sororities and Student Dormitories		-	-	-	-	-	-	-	-
Garage, Yard, & Estate Sales		-	-	-	-	-	-	-	-
Guest Quarters		-	-	-	-	-	-	-	-
Home Occupations		-	-	-	-	-	-	-	-
Housing for Senior Citizens		-	-	-	-	-	-	-	-
Live/Work Quarters		-	-	-	-	-	-	-	L
Residential Care Facilities:									
6 or Fewer Persons		-	-	-	-	-	-	-	-
7 or More Persons		-	-	-	-	-	-	-	-
Transitional Housing:									
6 or Fewer Persons		-	-	-	-	-	-	-	-
7 or More Persons		-	-	-	-	-	-	-	-
Watchkeeper Quarters		L	L	L	L	L	L	L	L
Institutional									
Separately Regulated Institutional Uses									
Airports		C	C	C	C	C	C	C	C
Botanical Gardens & Arboretums		-	-	-	-	-	-	-	-
Cemeteries, Mausoleums, Crematories		C	C	C	C	C	C	C	C
Churches & Places of Religious Assembly		C	C	-	C	L	-	-	C
Correctional Placement Centers		C	C	C	C	C	C	C	C
Educational Facilities:									
Kindergarten through Grade 12		-	C	-	C	C	-	-	C
Colleges / Universities		C	C	-	C	C	-	C	C
Vocational / Trade School		-	-	-	P	P	-	P	P
Energy Generation & Distribution Facilities		C	C	P	C	P	P	P	C

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Exhibit Halls & Convention Facilities		-	C	C	C	C	C	C	C
Flood Control Facilities		L	L	L	L	L	L	L	L
Historical Buildings Used for Purposes Not Otherwise Allowed		C	C	C	C	C	C	C	C
Homeless Facilities:									
Congregate Meal Facilities		-	C	-	C	C	-	C	C
Emergency Shelters		-	C	-	C	C	-	C	C
Homeless Day Centers		-	C	-	C	C	-	C	C
Hospitals, Intermediate Care Facilities & Nursing Facilities		C	C	-	C	C	-	C	C
Interpretive Centers		-	-	-	-	-	-	-	-
Museums		-	-	-	-	-	-	-	-
Major Transmission, Relay, or Communications Switching Stations		C	C	C	C	C	P	C	C
Satellite Antennas		L	L	L	L	L	L	L	L
Social Service Institutions		C	C	C	C	C	-	-	C
Wireless communication facility:									
Wireless communication facility in the *public right-of-way* with subterranean equipment adjacent to a non-residential use		L	L	L	L	L	L	L	L
Wireless communication facility in the *public right-of-way* with subterranean equipment adjacent to a residential use		N	N	N	N	N	N	N	N
Wireless communication facility in the *public right-of-way* with above ground equipment		C	C	C	C	C	C	C	C
Wireless communication facility outside the *public right-of-way*		L	L	L	L	L	L	L	L
Retail Sales									
Building Supplies & Equipment		-	-	P[6,15]	P[15]	P[15]	-	P[6,15]	P[15]
Food, Beverages and Groceries		-	-	-	-	P[15]	-	-	-
Consumer Goods, Furniture, Appliances, Equipment		-	-	-	P[2,15]	P[15]	-	-	P[3,15]
Pets & Pet Supplies		-	-	-	-	P[15]	-	-	-
Sundries, Pharmaceuticals, & Convenience Sales		-	P[5,15]	P[5,15]	P[5,15]	P[15]	P[5,15]	P[5,15]	P[4,15]
Wearing Apparel & Accessories		-	-	-	P[3,15]	P[3,15]	-	-	P[3,15]
Separately Regulated Retail Sales Uses									
Agriculture Related Supplies & Equipment		-	-	-	P	P	P	P	P
Alcoholic Beverage Outlets		-	-	-	-	L	-	-	-
Plant Nurseries		-	-	-	-	P	-	P	P
Swap Meets & Other Large Outdoor Retail Facilities		-	-	C	C	C	C	C	C

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Commercial Services									
Building Services		-	-	P	P	P	-	P	P
Business Support		-	P(8)	P(8)	P	P	-	P(8)	P
Eating & Drinking Establishments		-	P(7)	P(7)	P(7)	P	-	P(7)	P(4)
Financial Institutions		-	P	-	P	P	-	-	P
Funeral & Mortuary Services		-	-	-	P	P	-	P	-
Maintenance & Repair		-	-	P	P	P	-	-	P
Off-site Services		-	P	P	P	P	-	P	P
Personal Services		-	-	-	P(9)	P(9)	-	-	-
Assembly & Entertainment		-	-	-	P(11)	P	-	-	P(12)
Radio & Television Studios		-	P	P	P	P	-	P	P
Visitor Accommodations		-	-	-	-	-	-	-	-
Separately Regulated Commercial Services Uses									
Adult Entertainment Establishments:									
Adult Book Store		-	-	-	L	L	-	L	L
Adult Cabaret		-	-	-	-	L	-	-	-
Adult Drive-in Theater		-	-	-	L	L	-	-	-
Adult Mini-Motion Picture Theater		-	-	-	L	L	-	-	L
Adult Model Studio		-	-	-	L	L	-	-	-
Adult *Motel*		-	-	-	-	-	-	-	-
Adult Motion Picture Theater		-	-	-	L	L	-	-	L
Adult Peep Show Theater		-	-	-	L	L	-	-	L
Adult Theater		-	-	-	L	L	-	-	L
Body Painting Studio		-	-	-	L	L	-	-	-
Massage Establishment		-	-	-	-	L	-	-	-
Sexual Encounter Establishment		-	-	-	-	-	-	-	-
Bed & Breakfast Establishments:									
1-2 Guest Rooms		-	-	-	-	-	-	-	-
3-5 Guest Rooms		-	-	-	-	-	-	-	-
6+ Guest Rooms		-	-	-	-	-	-	-	-
Boarding Kennels		-	C	C	C	C	C	C	C
Camping Parks		-	-	-	-	-	-	-	-

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	**Zones**							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Child Care Facilities:									
Child Care Centers		L	L	-	L	L	-	L	L
Large Family Day Care Homes		-	-	-	-	-	-	-	-
Small Family Day Care Homes		-	-	-	-	-	-	-	-
Eating and Drinking Establishments Abutting Residentially Zoned Property		-	-	-	-	L	-	-	-
Fairgrounds		-	C	C	C	C	C	C	C
Golf Courses, Driving Ranges, and Pitch & Putt Courses		-	C	C	C	C	C	C	C
Helicopter Landing Facilities		C	C	C	C	C	C	C	C
Instructional Studios		-	-	-	-	P	-	-	P
Massage Establishments, Specialized Practice		-	-	-	-	L	-	-	-
Nightclubs & Bars over 5,000 square feet in size		-	-	-	-	-	-	-	-
Parking Facilities as a *Primary Use*:									
Permanent Parking Facilities		C	C	P	C	P	P	P	C
Temporary Parking Facilities		C	C	N	C	N	N	N	C
Private Clubs, Lodges and Fraternal Organizations		C	C	C	C	C	C	C	C
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size(13)		C	C	C	C	C	C	C	C
Pushcarts:									
Pushcarts on Private Property		L	L	L	L	L	L	L	L
Pushcarts in Public Right of Way		N	N	N	N	N	N	N	N
Recycling Facilities:									
Large Collection Facility		L	N	N	N	N	L	L	N
Small Collection Facility		L	L	L	L	L	L	L	L
Large Construction & Demolition Debris *Recycling Facility*		-	-	N	-	C	C	N	-
Small Construction & Demolition Debris *Recycling Facility*		-	-	N	-	C	N	N	-
Drop-off Facility		L	L	L	L	L	L	L	L
Green Materials Composting Facility		-	-	N	-	N	N	N	-
Mixed Organic Composting Facility		-	-	C	-	C	N	N	-
Large Processing Facility Accepting at Least 98% of Total Annual Weight of Recyclables from Commercial & Industrial Traffic		-	C	L	L	L	L	L	C
Large Processing Facility Accepting All Types of Traffic		-	C	N	N	N	N	N	C
Small Processing Facility Accepting at Least 98% of Total Annual Weight of Recyclables From Commercial & Industrial Traffic		-	N	L	L	L	L	L	N
Small Processing Facility Accepting All Types of Traffic		-	N	N	N	N	N	N	N
Reverse Vending Machines		L	L	L	L	L	L	L	L

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Tire Processing Facility		-	-	C	-	C	C	C	-
Sidewalk Cafes		-	N	N	N	N	-	N	N
Sports Arenas & Stadiums		-	C	-	C	C	-	C	-
Theaters that are outdoor or over 5,000 square feet in size		-	C	-	C	C	-	C	-
Urgent Care Facilities		-	L	-	L	P	-	L	L
Veterinary Clinics & Animal Hospitals		-	C	C	C	P	C	C	C
Zoological Parks		-	-	-	-	-	-	-	-
Offices									
Business & Professional		-	P	-	P	P	-	-	P
Government		-	P	-	P	P	-	P	P
Medical, Dental, & Health Practitioner		-	-	-	P	P	-	-	P
Regional & Corporate Headquarters		P(1)	P	P(1)	P	P	-	P(14)	P
Separately Regulated Office Uses									
Real Estate Sales Offices & Model Homes		-	-	-	-	-	-	-	-
Sex Offender Treatment & Counseling		-	L	-	L	L	-	-	L
Vehicle & Vehicular Equipment Sales & Service									
Commercial Vehicle Repair & Maintenance		-	-	P	P	P	P	P	P
Commercial Vehicle Sales & Rentals		-	-	P	P	P	P	P	P
Personal Vehicle Repair & Maintenance		-	-	P	P	P	-	-	P
Personal Vehicle Sales & Rentals		-	-	P	P	P	-	P	P
Vehicle Equipment & Supplies Sales & Rentals		-	-	P	-	P	P	P	P
Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses									
Automobile Service Stations		C	C	C	C	C	C	C	C
Outdoor Storage & Display of New, Unregistered Motor Vehicles as a *primary use*		-	-	P	P	P	P	P	P
Wholesale, Distribution, Storage									
Equipment & Materials Storage Yards		-	-	P	P	P	P	P	P
Moving & Storage Facilities		-	-	P	P	P	P	P	P
Warehouses		-	-	P	P	P	P	P	P
Wholesale Distribution		-	P	P	P	P	P	P	P
Separately Regulated Wholesale, Distribution, and Storage Uses									
Impound Storage Yards		-	-	P	P	P	P	P	P
Junk Yards		-	-	C	C	C	C	C	C
Temporary Construction Storage Yards Located off-site		L	L	L	L	L	L	L	L

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Industrial									
Heavy Manufacturing		-	-	-	-	-	P	P	-
Light Manufacturing		P(10)	P	P	P	P	P	P	P
Marine Industry		-	-	P	P	P	P	P	P
Research & Development		P	P	P	P	P	P	P	P
Trucking & Transportation Terminals		-	-	P	-	P	P	P	P
Separately Regulated Industrial Uses									
Hazardous Waste Research Facility		C	C	C	C	C	C	C	C
Hazardous Waste Treatment Facility		C	C	C	C	C	C	C	C
Marine Related Uses Within the Coastal Overlay Zone		-	-	P	P	P	P	P	P
Mining and Extractive Industries		-	C	C	C	C	C	C	C
Newspaper Publishing Plants		C	P	P	P	P	P	P	P
Processing & Packaging of Plant Products & Animal By-products Grown Off-premises		-	-	P	P	P	P	P	P
Very Heavy Industrial Uses		-	-	-	-	-	C	C	-
Wrecking & Dismantling of Motor Vehicles		-	-	C	C	C	P	C	C
Signs									
Allowable *Signs*		P	P	P	P	P	P	P	P
Separately Regulated *Signs* Uses									
Community Identification *Signs*		-	-	-	-	-	-	-	-
Reallocation of *Sign* Area Allowance		N	N	N	N	N	N	N	N
Revolving *Projecting Signs*		N	N	N	N	N	N	N	N
Signs with Automatic Changing Copy		N	N	N	N	N	N	N	N
Theater *Marquees*		-	-	-	N	N	-	-	-

Footnotes for Table 131-06B

1 A regional and corporate headquarters establishment shall have a *gross floor area* of at least 40,000 square feet.

2 Household and office furniture, appliances, and equipment sales establishments shall occupy an area of at least 5,000 square feet in *gross floor area* unless the sales are of items that are manufactured on the same *premises*.

3 See Section 131.0623(g).

4 See Section 131.0623(h)

5 See Section 131.0623(a).

6 See Section 131.0623(f).

7 See Section 131.0623(b).

8 See Section 131.0623(c).

9 See Section 131.0623(d).

10 See Section 131.0623(e).

11 Assembly uses shall occupy at least 5,000 square feet of the *gross floor area*.

12 Recreational facilities shall not exceed 2,500 square feet of *gross floor area* and 2,500 square feet of outdoor recreational use area.

13 The 40,000 square feet includes all indoor and outdoor areas that are devoted to the recreational use; it does not include customer parking areas.

14 Only one regional and corporate headquarters establishment is permitted on an individual parcel of land.

15 *Development* of a *large retail establishment* is subject to Section 143.0302.

(Amended 6-12-2001 by O-18948 N.S.; effective 12-12-2001.)
(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)
(Amended 8-10-2004 by O-19308 N.S.; effective 4-11-2007.)
(Amended 6-15-2007 by O-19624 N.S.; effective 7-15-2007.)
(Amended 4-23-2008 by O-19739 N.S.; effective 5-23-2008.)

[**Editors Note.** Amendments as adopted by O-19739 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission unconditionally certifies it as a Local Coastal Program Amendment.]

EXHIBIT 39

Article 17: Otay Mesa Development District

("Otay Mesa Development District" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

Division 1: General Rules

("General Rules" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0101 Purpose and Intent

The purpose of the Otay Mesa Development District Ordinance is to create and promote the development of the City's largest and potentially most significant industrial area. It is also the purpose of the Otay Mesa Development District Ordinance to control the use, development intensity, and development design of a primarily industrial area which includes a large commercial subdistrict and a border station mixed use subdistrict. An objective of the Otay Mesa Development District Ordinance is to expedite the processing of development permit applications.

It is intended that this District will provide for a full range of industrial uses emphasizing base sector manufacturing and also including wholesaling and distribution, assembly operations, and necessary support services. Because of its location adjacent to the international border, its accessibility to Mexico, and its abundance of large, readily developable parcels, Otay Mesa is a unique area. It has the potential of becoming a major industrial center, not only in San Diego County, but also in the southwestern United States. It is situated near, and accessible to the Mesa de Otay industrial complex in Tijuana B.C., Mexico. It is intended that the Otay Mesa Development District provide the necessary facilities and services to complement the Otay Mesa border crossing. It is also intended that the Otay Mesa Development District Ordinance provide commercial use types necessary to support both the industrial area and the border crossing.

The Otay Mesa Development District Ordinance provides for, and encourages, agricultural activities as an interim use throughout its area of applicability.
("Purpose and Intent" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0102 Area of Applicability

The regulations contained in this Development District Ordinance, shall apply in the Otay Mesa Development District, the boundaries of which are shown on Map Drawing No. C-855 and described in the appended boundary description filed in the office of the City Clerk under Document No. OO-17985. The Otay Mesa

EXHIBIT 40

Article 17: Otay Mesa Development District

("Otay Mesa Development District" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

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The regulations contained in this Development District Ordinance, shall apply in the Otay Mesa Development District, the boundaries of which are shown on Map Drawing No. C-855 and described in the appended boundary description filed in the office of the City Clerk under Document No. OO-17985. The Otay Mesa

Development District contains approximately 3,731 acres of industrially designated land, 240 acres of commercially designated land, 239 acres of canyon and hillside areas, 43 acres of land designated as the Brown Field Flight Activity Zones, 348 acres of land designated as the Brown Field Approach Zones, and a 450-acre Otay International Center Precise Plan Subdistrict.
("Area of Applicability" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0103 Applicable Regulations

Where not otherwise specified in the Otay Mesa Development District Ordinance, the following provisions of the Land Development Code apply:

Chapter 11 (Land Development Procedures);

Chapter 12 (Land Development Reviews);

Chapter 13 (Zones);

Chapter 14, Article 1 (Separately Regulated Use Regulations);

Chapter 14, Article 2, Division 1 (Grading Regulations);

Chapter 14, Article 2, Division 2 (Drainage Regulations);

Chapter 14, Article 2, Division 3 (Fence Regulations);

Chapter 14, Article 2, Division 4 (Landscape Regulations);

Chapter 14, Article 2, Division 5 (Parking Regulations);

Chapter 14, Article 2, Division 6 (Public Facility Regulations);

Chapter 14, Article 2, Division 8 (Refuse and Recyclable Materials Storage Regulations);

Chapter 14, Article 2, Division 12 (Sign Regulations);

Chapter 14, Article 3 (Supplemental Development Regulations);

Chapter 14, Article 4 (Subdivision Regulations);

Chapter 14, Article 5 (Building Regulations);

Chapter 14, Article 6 (Electrical Regulations); and

EXHIBIT 41

Article 17: Otay Mesa Development District

("Otay Mesa Development District" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

Division 2: Permits and Procedures

("Permits and Procedures" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0201 Administrative Regulations

(a) General Provisions

(1) The City Manager shall administer the Otay Mesa Development District Ordinance and ensure compliance with the regulations and procedures of this Ordinance. The Otay Mesa Community Plan as presently adopted or as amended from time to time, shall also be used in reviewing any development permit applied for under this Ordinance.

(2) The City Manager shall not issue any building permit for the erection, construction, conversion, establishment, alteration or enlargement of any building or structure in any portion of the Otay Mesa Development District until an Otay Mesa Development Permit has been obtained by the applicant or owner. Each application for a building permit or occupancy permit shall state therein the purpose for which the proposed building, structure or improvement is intended to be used. Approval of an Otay Mesa Development District Permit is not required for interior modifications, repairs or remodeling, nor any exterior repairs or alterations for which a building permit or occupancy permit is not required.

(3) Expansion or enlargement of previously conforming uses is not permitted in this Development District. Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) applies to previously conforming uses with the exception of those provisions which permit expansion or enlargement of a previously conforming use.

("Administrative Regulations" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

EXHIBIT 42

§1517.0202 General Permit Procedures

(a) The following projects may be approved or denied by the City Manager in accordance with Process One, and do not require an Otay Mesa Development District Permit.

(1) The proposed use is consistent with the land use designation and text of the Otay Mesa Community Plan.

(2) The proposal is in compliance with this Ordinance, particularly Section 1517.0204 (Financing of Public Facilities), Section 1517.0301 (Permitted Uses), and Section 1517.0305 (Property Development Regulations).

(3) The proposal is within the Otay International Center Precise Plan Subdistrict (Section 1517.0302) and meets all regulations contained therein.

(b) The following projects shall be required to obtain an Otay Mesa Development District Permit in accordance with Section 1517.0203 (Otay Mesa Development District Permit):

(1) Any project that uses transfer of development rights and any project that uses acquired development rights.

(2) Any project within the Canyon and Hillside Subdistrict Section 1517.0303 (Canyon and Hillside Subdistrict).

(3) Any project which deviates from the regulations of this Ordinance.

(4) Any project which includes a hotel or motel.

(5) Any project for which a tentative map has not been approved subsequent to March 14, 1985 (Otay Mesa Reorganization).

(c) Any development within Otay Corporate Center North (VTM 88-1144) or South (VTM 89-0302) is subject to the Otay Corporate Center Design Guidelines, which are to be used in conjunction with this Ordinance.

("General Permit Procedures" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

EXHIBIT 43

§1517.0203 Otay Mesa Development District Permit

(a) An application for an Otay Mesa Development District Permit, including fees or deposits, shall be processed in the same manner as an application for a Site Development Permit, in accordance with Land Development Code Chapter 11, Article 2 (Required Steps in Processing) and Chapter 12, Article 6, Division 5 (Site Development Permit Procedures).

(b) In reviewing and approving development plans, the Hearing Officer shall limit review and consideration to the following:

(1) Landscaping, pursuant to Section 1517.0402 (Landscaping).

(2) Preservation of existing topography where feasible.

(3) Layout of site with respect to location and width of driveways and private streets.

(4) Orientation and location of existing and proposed structures with respect to the site and adjacent properties.

(5) Location of business support services, if any.

(6) Signs in relation to site location and fronting streets.

(7) Parking lot location, traffic flow, marking of spaces, placement of lighting and screening from adjacent property.

(8) Location of loading docks and off-street loading facilities in relation to the adjacent property.

(9) Outdoor storage area location and screening in relation to adjacent property, streets and highways.

(10) Building materials utilized for exterior walls and, when appropriate, roofs.

(11) Building elevations in relation to minimum yard requirements and topographical features of the premises.

(12) Design guidelines provided in the Community Environmental Design Element of the Otay Mesa Community Plan as presently adopted or hereinafter amended and in Section 1517.0306 (Design Standards) and Section 1517.0404 (Special Regulations).

(13) Environmental constraints, if any identified during site-specific review of the development proposal.

(14) Needed public improvements.

(15) The location, size and spacing of projects using business support services in combination with acquired development rights. The location, size and spacing of such projects shall be consistent with the commercial and transportation goals of the Otay Mesa Community Plan and the Progress Guide and General Plan for the City of San Diego.

(c) An application for an Otay Mesa Development District Permit may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. A Hearing Officer may approve or conditionally approve an Otay Mesa Development District Permit if it is found from the evidence presented that all of the following facts exist:

(1) The application is complete and conforms with all City regulations, policies, guidelines, design standards and density;

(2) The proposed use and project design meet the purpose and intent of this Ordinance and the Otay Mesa Community Plan;

(3) The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity;

(4) The proposed use will comply with the relevant regulations in the Municipal Code; and

(5) A plan for the financing of public facilities as provided in Section 1517.0204 (Financing of Public Facilities) of the Otay Mesa Development District has been approved by the City Engineer.

(d) The premises shall be developed in substantial conformance with approved development plans, and substantial conformance shall be determined by the City Manager.

(e) In approving an Otay Mesa Development District Permit, a suspension or variance of any of the Property Development Regulations, as set forth in Section 1517.0305, may be approved by the Hearing Officer, provided such suspension or variance shall be based on sufficient showing that there are special circumstances or conditions affecting the property in question, that granting suspension or variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and that the granting of the suspension or variance will not adversely affect the Progress Guide and General Plan of the City.

(f) Otay Mesa Development District Permits are issued to development projects and projects to operate facilities. The term "development" includes the following activities: landform alteration, grading, construction or reconstruction of buildings and parking areas, provision of on- and off-site public facilities, and landscaping. The term "operation" includes the conduct of business on a property consistent with City codes and regulations. The applicant seeking an Otay Mesa Development District Permit that involves the development may be charged development impact fees for both permanent and interim uses. Fees may be prorated for interim uses.

(g) The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506.

("Otay Mesa Development District Permit" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0204 Financing of Public Facilities

(a) Purpose and Intent

The public health, safety, and welfare require that residents in newly developing areas be adequately served with access, parks, schools, open space, libraries, fire stations and other public facilities concurrent with the need.

(b) Financial Responsibility

All necessary public facilities shall be provided by the project applicant, either directly by the applicant or by other means such as a charge against the area within the Otay Mesa Development District in accordance with the adopted Otay Mesa Community Plan.

(c) Financial Programs for Municipal Facilities

The Municipal Facilities required for the Otay Mesa community shall be financed through these programs:

(1) Facilities Benefit Assessment or Development Impact Fee.

EXHIBIT 44

special circumstances or conditions affecting the property in question, that granting suspension or variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and that the granting of the suspension or variance will not adversely affect the Progress Guide and General Plan of the City.

(f) Otay Mesa Development District Permits are issued to development projects and projects to operate facilities. The term "development" includes the following activities: landform alteration, grading, construction or reconstruction of buildings and parking areas, provision of on- and off-site public facilities, and landscaping. The term "operation" includes the conduct of business on a property consistent with City codes and regulations. The applicant seeking an Otay Mesa Development District Permit that involves the development may be charged development impact fees for both permanent and interim uses. Fees may be prorated for interim uses.

(g) The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506.

("Otay Mesa Development District Permit" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0204 Financing of Public Facilities

(a) Purpose and Intent

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(b) Financial Responsibility

All necessary public facilities shall be provided by the project applicant, either directly by the applicant or by other means such as a charge against the area within the Otay Mesa Development District in accordance with the adopted Otay Mesa Community Plan.

(c) Financial Programs for Municipal Facilities

The Municipal Facilities required for the Otay Mesa community shall be financed through these programs:

(1) Facilities Benefit Assessment or Development Impact Fee.

(A) For facilities which already exist outside of the Otay Mesa community, but which require additions or expansions to existing facilities to meet the requirements of the Otay Mesa community: i.e., police and public work facilities.

(B) For new facilities necessitated by the Otay Mesa community: i.e., fire station and transportation facilities.

(C) For facilities which extend beyond the limit of the Otay Mesa community, whose service area is also greater than the Otay Mesa community and the need for which is not solely created by the Otay Mesa community: costs for improvements so constructed may be partially offset by reimbursements from development in those service areas greater than the Otay Mesa community.

(D) For facilities within or without the community which are intended for the use of residents such as: street scene improvements (landscaping of the medians and right-of-way along major streets), traffic signals at the intersection of major streets, and other transportation facilities.

(2) Improvement District

An Improvement District under the provisions of state law or local procedural ordinance may be created to create assessments against the land to generate funds to finance facilities which are related to each individual planned district area by amount of benefit received. The facilities to be provided by this improvement district may include, but not be limited to: major perimeter streets; transit improvements; both municipal and other public utilities and drainage facilities contained therein. The boundary of each improvement district will be the centerline of the bordering perimeter streets, or other applicable limit, of each individual development plan area within the Otay Mesa community as the City shall determine.

(3) On-Site Municipal Improvements

The on-site municipal facilities, those within the individual neighborhood and not provided by Sections 1517.0204(c)(1)(A) and 1517.0204(c)(1)(B), such as: streets, storm drains, and sewer, water, gas, power, and telephone utilities, will be provided by the subdivider under the conventional bonded subdivision agreement.

(4) Off-Site Municipal Improvements

The off-site municipal improvements are those outside of an individual development plan area at the time of its development and not provided under the conventional subdivision process for off-site improvements. The off-site improvements so constructed may be subject to a reimbursement agreement between the persons who constructed the improvements and the City of San Diego. Reimbursement pursuant to that agreement will be generated by the subdivider(s) of the subsequent development plan areas, where adjacent, and will be paid to the appropriate subdivider(s) as and when such funds are generated within the subareas covered by the reimbursement agreement.

(5) Any other programs approved by the City Council.

(6) Implementation

No final subdivision map, building permit or Otay Mesa Development District Permit for the development of the property shall be approved by the City Manager unless and until the following have been accomplished:

(A) A financing plan for all public facilities needed to support the project, as required by the Otay Mesa Community Plan, has been adopted pursuant to Council Policy 600-28.

(B) There has been established either a Facilities Benefit Assessment or a Development Impact Fee applicable to the property covered by the development plan, or a greater area, and the City Council has by resolution, set the amount of such Facilities Benefit Assessment or Development Impact Fee.

(7) Financing Agreement

The requirements of Section 1517.0204(c)(4) (Off-Site Municipal Improvements) shall be deemed to be met if the project applicant has entered into a binding financing agreement, approved by the City Council. Said agreement shall require that the project applicant pay its pro rata share of all public facilities needed to support the project.

("Financing of Public Facilities" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

EXHIBIT 45

Article 17: Otay Mesa Development District

("Otay Mesa Development District" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

Division 3: Zones and Subdistricts

("Zones and Subdistricts" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0301 Permitted Uses

(a) Industrial Subdistrict

No building or improvement or portion thereof shall be erected, constructed, converted, established or enlarged, nor shall any premises be used except for one or more of the following purposes:

(1) All uses permitted in the IH-2-1 zone (Land Development Code Section 131.0622 Use Regulations Table for Industrial Zones).

(2) Research Services.

(A) Scientific research and development activities. Administrative offices shall be permitted in conjunction with the primary use where such office use is accessory and subordinate to the primary use.

(B) Manufacturing, fabrication, and/or production of products requiring advance technology and skills and directly related to research and development activities on the premises.

(C) Manufacturing of biochemical research and diagnostic compounds for scientific research and developmental testing purposes.

(D) Production of experimental products, and the manufacturing of such products as may be necessary to the development of production or operating systems where such systems are to be installed and operated at another location.

(E) Medical, dental, biological and X-ray laboratories.

(3) General Industrial

Establishments engaged in the custom manufacturing, manufacturing, fabricating, assembly, testing, repair, servicing, and processing of a wide range of products. Administrative offices shall be permitted in conjunction with the primary use where such office use is accessory and subordinate to the primary use.

(4) Motor Vehicles and Equipment

(A) Aircraft, automobile and boat repair shops

(B) Aircraft and accessories, sales or rental

(C) Boats and accessories, sales or rental

(D) Farm and construction vehicles, farm equipment, farm and garden supplies, sales or rental

(5) Construction Sales and Service

(A) Equipment and tool rental establishments

(B) Storage yards for building materials storage contractor's plant or storage yard, concrete pipe storage, impound storage yard

(C) Lumber sales

(D) Building and building maintenance materials

(E) Fire-fighting equipment and supplies sales

(F) Swimming pools and supplies sales

(6) Wholesaling, Storage and Distribution

(A) Storage warehouses

(B) Wholesale distribution of:

(i) Drugs, chemicals, and allied products

(ii) Dry goods and apparel

(iii) Groceries and related products

(iv) Electrical goods

(v) Hardware, plumbing, and heating equipment and supplies

(vi) Machinery, equipment and supplies

(vii) Tobacco and tobacco products

(viii) Beer, wine and distilled alcoholic beverages

(ix) Paper, paper products, and kindred supplies

(x) Furniture and home furnishings

(xi) Fuel and ice

(xii) Agricultural products

(xiii) Motor vehicles and automotive equipment

(C) Truck terminals and freight forwarding facilities.

(D) Customs brokerage operations.

(E) Postal services.

(F) Truck and tractor trailer parking facilities.

(7) Business Support Services

(A) These uses shall be limited to 5 percent of the gross ownership area. Projects utilizing business support service uses may be processed by using the Commercial Subdistrict Property Development Regulations contained in Section 1517.0305.

(B) The use of any property for business support service uses requires notice be given by certified mail to the City Manager for the purpose of recording the location and quantities of property to be used for such purposes. Such notice shall be filed with the City Manager prior to the City Manager's approval or denial of the ministerial permit.

(C) Business support service uses shall be the same as Commercial Subdistrict uses except that hotels, motels, and automobile and truck sales and rental agencies shall not be permitted.

(8) Major Utilities and Services

(A) Trade schools instructing in subjects related to a use permitted within the Industrial Subdistrict

(B) Emergency hospitals

(C) Central electric plants

(D) Public utility electric substations

(E) Data processing facilities

(9) Agricultural Uses

Uses permitted in the AR-1-2 or AR-1-1 zones (Land Development Code Section 131.0322 Use Regulations Table for Industrial Zones) except for single dwelling units and churches.

(b) Commercial Subdistricts

No building or improvement or portion thereof shall be erected, constructed, converted, established or enlarged, nor shall any premises be used except for one or more of the following purposes:

(1) Uses identified as business support uses in Section 1517.0301(a)(7) (Business Support Services)

(2) Business and professional office uses

(3) Labor unions and trade associations

(4) Medical, dental, biological and x-ray laboratories

(5) Hotels and motels

(6) Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:

(A) Barber shops

(B) Beauty shops

(C) Drug stores

(D) Recreational facilities

(E) Stationers

(F) Automobile and truck sales and rental agencies

(G) Automobile wash establishments

(H) Financial institutions (including currency exchanges)

(I) Photographic equipment, supplies, and film processing stores

(J) Restaurants and bars, including live entertainment

(K) Tire sale, repair and recapping establishments if entirely within an enclosed building

(L) Custom shops for curtains, draperies, floor covering, upholstery and wearing apparel

(M) Laundries if entirely within an enclosed building

(N) Lithography shops and printing establishments

(7) Within the area bounded on the north by Otay Mesa Road, on the south by Airway Road, on the west by Alisa Court (to Airway Road), all uses described in section 1517.0301(a) are also permitted.

(c) Additional Uses - Commercial and Industrial Subdistricts

Other uses shall be permitted within the Commercial and Industrial Subdistricts as follows:

(1) Accessory uses for any of the foregoing permitted uses including signs. As specified in Land Development Code Chapter 14, Article 2, Division 12 (Sign Regulations), for sign regulatory purposes this Otay Mesa Development District shall be deemed to be an industrial zone.

(2) Any other uses which the Planning Commission finds, in accordance with Process Four, to be similar in character to the uses enumerated in the Otay Mesa Development District Ordinance and which are clearly within the intent and purpose of the Otay Mesa Development District. The adopted resolution embodying any such finding shall be filed in the office of the City Clerk.

("Permitted Uses" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0302 Otay International Center Precise Plan Subdistrict

In the Otay International Center Precise Plan Subdistrict identified on Map Drawing No. C-680.2, the property development regulations as set forth within the Otay International Center Precise Plan shall apply, and no building or improvement or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the land uses permitted on the parcel by the Precise Plan.

("Otay International Center Precise Plan Subdistrict" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0303 Canyon and Hillside Subdistrict

(a) The Canyon and Hillside Subdistrict, as identified on Map Drawing No. C-680 shall be applied to properties having slopes with a natural gradient in excess of 25 percent and a minimum elevation differential of 50 feet.

(b) All projects within this Subdistrict shall require an Otay Mesa Development District Permit (Section 1517.0201(a)(2) Administrative Regulations). The regulations contained in Land Development Code Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations) Section 1517.0305 (Property Development Regulations) shall be used in processing the Otay Mesa Development District Permit.

(c) Permitted Uses: Industrial Subdistrict uses may be considered as appropriate uses in conjunction with processing of the Otay Mesa Development District Permit.

("Canyon and Hillside Subdistrict" added 3-27-2007 by O-19594 N.S.; effective 4-26-2007.)

§1517.0304 Brown Field Flight Activity Subdistrict and Approach Zone

The Brown Field Flight Activity Subdistrict and Approach Zone, as identified on Map Drawing No. C-680.2, shall be applied to properties adjacent to the ends of the runways which aircraft use on either arrivals or departures.

EXHIBIT 46

EXHIBIT 47

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Blackwater opens San Diego training center

By Allison Hoffman
ASSOCIATED PRESS

1:59 a.m. June 6, 2008

SAN DIEGO – A new counterterrorism training facility operated by military security contractor Blackwater Worldwide echoed with the grunts of Navy sailors, a day after a federal judge ordered the city to let classes begin.

The 24 trainees batted and punched each other Thursday as they learned basic strike tactics in a corner of the 61,000-square-foot converted warehouse in an industrial area near the U.S.-Mexico border.

For the next three weeks, they'll practice shooting inside a 25-yard indoor firing range and learn to wear sidearms safely while wriggling through ship hatches and up narrow ladders installed in white metal cargo containers stacked along one wall of the building to simulate a ship. Trainers from Blackwater will quiz them on distinguishing small boats carrying cargo from those carrying bombs.

The company sued last month because city officials refused to issue final occupancy documents without a vote by the planning commission, after building inspectors had already signed off on the necessary permits. Blackwater said it faced a Navy contract deadline and accused the city of caving to political pressure.

The company has been targeted by anti-war activists and Rep. Bob Filner, D-Calif., who opposed its proposed training camp for law enforcement in a remote mountain community east of San Diego. That project was dropped after firing ranges failed to satisfy noise restrictions, but Filner and others have raised concerns that Blackwater is simply seeking a foothold near the border that could serve as a base for providing private migrant or drug interdiction services to federal agencies.

Blackwater insists the warehouse was built to provide the Navy's "ship reaction force basic" training course as part of a $400 million contract. The program is part of an initiative to train sailors in counterterrorist defense tactics after the 2000 bombing of the USS Cole in a Yemeni port.

"This facility supports our oldest customer," said company Vice President Brian Bonfiglio, referring to the military.

Blackwater trains sailors from East Coast bases at its headquarters in Moyock, N.C., where it offers an advanced course using model ships floating in a private lake. It developed the California warehouse to offer the introductory program to sailors from San Diego, Guam, Japan and other Pacific bases.

Bonfiglio acknowledged that Blackwater would gladly host other agencies, including the Border Patrol or Coast Guard, at the warehouse, located in an unmarked building within sight of the border fence and the Tijuana airport control tower beyond.

"If we had a bunch of Border Patrol vehicles parked outside, they'd accuse us of trying to take over the border," he said, only half-joking. "But I'd open up our doors to any law enforcement that needed training, if

I could do it."

The company has been expanding its domestic law enforcement training business, opening an 80-acre police training center in Mount Carroll, Ill., in 2007 to complement its 7,000-acre complex in North Carolina.

At the same time, Blackwater, the largest private security firm in Iraq, has come under increased scrutiny for its work abroad. Its guards are under investigation by a federal grand jury in Washington for their involvement in the shooting deaths of 17 Iraqi civilians. The company is also under investigation for possible weapons smuggling, allegations Blackwater denies.

Democratic activist Raymond Lutz said those inquiries can't be ignored when it comes to Blackwater's domestic operations.

"To put training in the hands of private profiteers means that you're giving up your ability to oversee what they're doing and when you give it up you lose control," Lutz said. "Why doesn't the Navy train its own people?"

Bonfiglio said his five trainers offer students a depth of counterterrorism experience the Navy couldn't match without pulling its own experts from other duties.

"What we do overseas needs to be separated from what we do in the United States," he said. "Here we put all of our effort into developing training facilities that are unmatched."

The pride of the facility is the mock warship area, where shipping containers are outfitted with red lights to simulate an onboard emergency and speakers blare clanking background noise during exercises.

On Thursday, workers were reinforcing a maze of wooden walls appended to the cargo containers at the request of city inspectors, who are still reviewing Blackwater's application to use the simulated ship area under an amusement-park ride permit, Bonfiglio said.

City lawyers said the company misled inspectors by applying for permits piecemeal and under the names of affiliated companies instead of making a single application to open a training center with firearms. District Court Judge Marilyn Huff ruled Wednesday that the company did not need to seek special approval because the area is already zoned for vocational school use.

The city has not said whether it will appeal.

Find this article at:
http://www.signonsandiego.com/news/metro/20080606-0159-blackwaterfight.html

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